

Dr. Edward H. Salmon  
Chairman  
Jeremiah F. O'Connor  
Commissioner  
Carmen J. Armenti  
Commissioner



STATE OF NEW JERSEY  
Board of Regulatory Commissioners  
Two Gateway Center  
Newark, NJ 07102

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JAN 26 1993

Celeste Fasone  
Director

Office of Cable Television  
(201) 648-2670

January 25, 1993

VIA FEDERAL EXPRESS OVERNIGHT MAIL

Hon. Donna R. Searcy, Secretary  
Office of the Secretary  
Federal Communications Commission  
Washington, DC 20554

Re: In The Matter of MM Docket No. 92-263

IMPLEMENTATION OF THE  
CABLE TELEVISION CONSUMER  
PROTECTION AND COMPETITION  
ACT OF 1992

Consumer Protection and Customer Service

Dear Ms. Searcy:

Enclosed please find an original and 12 copies of the **Reply Comments** of the State of New Jersey, Office of Cable Television for filing in the above matter. We have included copies for the Chairman, each Commissioner, Ms. Ellen Schned and Mr. Alan Aronowitz.

Kindly place the Office on the service list for this docket.

Please return one copy marked "Filed" in the enclosed addressed, stamped envelope.

Thank you for your consideration.

Very truly yours,

Celeste M. Fasone  
Director

jf

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

BEFORE THE  
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PCB-TELEVISION

In The Matter of )  
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Implementation of Section 8 of the )  
Cable Television Consumer Protection ) MM Docket No. 92-263  
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Consumer Protection and Customer )  
Service )

Reply Comments of the Staff of the  
State of New Jersey, Office of Cable Television  
of the Board of Regulatory Commissioners  
on Notice of Proposed Rulemaking

The State of New Jersey, Office of Cable Television  
(hereinafter "NJOC-TV"), of the Board of Regulatory  
Commissioners hereinafter ("Board"), respectfully submits the  
following reply comments to the Notice of Proposed Rulemaking  
released by the Federal Communications Commission  
(hereinafter "Commission") on December 11, 1992. The Board  
has broad regulatory authority over cable television  
operations in the State of New Jersey pursuant to the New  
Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq., and is  
the franchising authority for New Jersey cable television  
systems. See 47 U.S.C.A. Section 541, N.J.S.A. 48:5A-15. The

Board's NJOCTV has extensive experience in the investigation and resolution of disputes with respect to customer service standards between the cable operators and their subscribers.

#### **ACTION TO IMPOSE CUSTOMER SERVICE STANDARDS**

The Commission has asked for comments on what actions, if any, are necessary regarding the specific mechanism whereby the Commission's standards become "service requirements" for local cable system operators. In addition, the Commission has asked for comments pertaining to federal standards that are not self-executing and what actions, if any, must a franchising authority undertake in order to impose the Commission's standards, or some other standards.

New Jersey relies on what we believe to be a very effective, coherent and comprehensive rulemaking procedure which resulted in adoption of customer service standards N.J.A.C. 14:18. The New Jersey rulemaking process encompasses a variety of sources and procedures, including research, public hearings, public comment and empirical data, which has allowed the NJOCTV to implement specific and definitive customer service standards. The NJOCTV believes that this "hands on" rulemaking approach acts as a unique barometer, as it enables the franchising authority to detect problem areas and implement improvements with respect to customer service. In New Jersey, notices of inquiry, rule pre-proposals, proposals, and ultimately rule adoptions provide a thorough ongoing examination of proposed customer service standards and imposition of these standards after

full public proceeding. This process is in conformance with the New Jersey Administrative Procedure Act N.J.S.A. 52:14B-1 et seq.

#### **SERVICE REQUIREMENTS IMPOSED WITHOUT LIMITATION**

The NJOCTV concurs with the Commission that Section 632(c)(1) "clearly articulates Congress intent that local franchising authorities retain the power to adopt consumer protection laws of general applicability, except as they may be specifically pre-empted by the 1992 Cable Act".

In addition, the NJOCTV agrees with the comments of the New York State Commission on Cable Television that "... it is clear from a reading of new subsections (a) and (c)(2) that state and local governments are free to impose and enforce customer service requirements either pursuant to the cable television franchise or by separate law or regulation." (NYSCCT comments page 5, paragraph 7).

The NJOCTV believes that customer service requirements should not be confined only to the initial franchise or renewal award. The NJOCTV adopts customer service standards through rulemaking on a statewide basis with notice to all interested parties and the right to be heard.

In states where the pervasive jurisdiction of a franchise authority exists, as in New Jersey, that franchise authority should be allowed to set customer service standards through a rulemaking process with procedural safeguards to allow interested parties to express their views. The Commission should take no action which would in any way limit such authority.

## **IMPACT OF THE ACT ON EXISTING FRANCHISING AGREEMENTS**

The Commission has asked for comments on what impact Section 632(a) of the 1984 Cable Act has on existing franchising agreements, particularly as to whether it permits a franchising authority to modify existing franchise agreements prior to renewal. In addition, the Commission has asked specifically when, pursuant to the new Act, local government/franchising authorities may impose new customer service standards, and the extent to which existing franchise agreements can or should be grandfathered.

As stated in previous comments, we believe that the implementation of customer service standards should not be confined to the renewal stage of franchise agreements. As the franchising authority in the State of New Jersey, the NJOCTV sets the customer service standards applicable statewide through rulemaking. All cable operators, regardless of the municipal franchise agreement, must conform to state law.

Although the NJOCTV maintains authority over the operations of cable operators, the NJOCTV does permit municipalities and cable operators to negotiate certain requirements during the franchising process. For example, the NJOCTV would permit an agreement concerning local business office hours of operation.

We feel that some limited discretion is permissible to allow for a balancing of local communities' needs against the NJOCTV's obligation to ensure that, for the most part, uniform service standards are maintained throughout New Jersey.

The NJOCTV concurs with the New York State Commission on Cable Television that "existing customer service requirements in a franchise to the extent they exceed Commission standards would continue to apply as if contained in a separate law until such time as a franchising authority determined to modify them by local law or regulation". (NYSCCT comments page 7, paragraph 25).

We feel that the Commission should allow franchising authorities to establish different or more stringent customer service standards through the rule adoption process.

#### **NCTA'S STANDARDS SERVING AS A FEDERAL BENCHMARK**

The Commission requests comments on whether the National Cable Television Association (hereinafter "NCTA") standards (or some modification thereof) may provide an appropriate federal customer service benchmark and whether other standards, more or less stringent than NCTA's have been established.

We agree with the comments of the New York State Commission on Cable Television that "as a general matter, the NCTA's customer service standards constitute reasonable minimal customer service requirements suitable for adoption by the Commission". (NYSCCT comments page 9, paragraph 13). (emphasis added).

It is the position of the NJOCTV that in the absence of more cogent customer service standards that have already been established or will be implemented through the action of franchising authorities, the NCTA's customer service

standards could serve as an minimum "benchmark".

However, in jurisdictions such as New Jersey, where different or more stringent standards are adopted, we believe that those customer service standards should govern.

The State of New Jersey has been at the fore-front of striking the delicate balance of providing its citizen's meaningful and effective consumer protection rights while continuing to promote a healthy and attractive environment for the cable television industry. The NJOCTV believes that our customer service standards are more stringent and broad reaching than the NCTA's and provide more comprehensive, and effective solutions to the needs of cable consumers in New Jersey.

The NJOCTV believes that any pre-emption by the Commission of a franchising authority capability to set different, and in some cases more stringent customer service standards, would be contrary to Congressional intent. We believe that the process of setting customer service standards through the open and extensive process of rulemaking reflects Congress' intent that, "local franchising authorities retain the power to adopt consumer protection laws of general applicability, except as they may be specifically pre-empted by the 1992 Cable Act". Again, franchising authorities should be allowed to establish different and more stringent customer service standards.

As set forth in the New Jersey Administrative Code, Chapter 14:18, we have listed examples of customer service standards, with accompanying comments, which have been implemented in New Jersey and exceed the standards of the NCTA.

**TARIFF INFORMATION:** The cable television company shall post a complete copy of its tariff showing all rates, charges, and services in a prominent location in its local business offices N.J.A.C. 14:18-3.4.

**OUTAGE CREDIT:** Cable television companies shall credit subscribers for outages that last six (6) continuous hours or more. The amount of credit shall be in one day units, prorated on the basis of the subscriber's monthly rate for each service not available. N.J.A.C. 14:18-3.5.

With regard to outage credits, the NJOCTV agrees with the comments of the New York State Commission on Cable Television that "... the Commission should consider amplifying the NCTA standard by a minimum credit requirement for total service outages of some minimum length. Since the Commission has residual authority to regulate basic service rates under the statute and primary authority to determine the unreasonableness of rates for programming services, it is arguably within the scope of the Commission's authority to provide for credits for service outages." (NYSCCT comments page 11, paragraph 15.)

**ACCESS TO COMPANY REPRESENTATIVES:** Subscriber's phone calls shall be answered by a representative or agent of the company 24 hours a day. N.J.A.C. 14:18-3.6.

The NJOCTV concurs with the comments of the New York State Commission on Cable Television that "the Commission should enhance the NCTA standard by requiring some provision



for the receipt of telephone calls for service problems by a cable operator during non-business hours either by an answering service or some kind of automated equipment."

(NYSCCT comments page 10, paragraph 14). Further, as evidenced by our adoption of the aforementioned "access to company representative" rule, the NJOCTV believes that some agent of the cable television operator should be accessible to subscribers at all times.

In terms of cable operator's general accessibility to subscriber's by telephone, NJOCTV has adopted a rule which requires both yearly and bimonthly reports of each operator's telephone traffic standards (hold time, etc.). N.J.A.C. 14:18-7.6.

The NJOCTV recently conducted a review with respect to subscriber's accessibility of its local cable system. The NJOCTV review found that there were six hundred and fifty-five (655) less consumer complaints lodged with the NJOCTV concerning subscribers accessibility to the cable operator by telephone in the year succeeding the addition of telephone reporting requirements. The NJOCTV maintains that this dramatic reduction in complaints concerning subscriber difficulty in reaching the cable company by telephone may be a direct result of two rulemaking initiatives. First, is the adoption of the aforementioned rule requiring the bimonthly reports of telephone traffic standards. Second, is the rule regarding 24 hour access to a company agent or representative. These rules have compelled many operators in the state to closely examine, improve and continuously manage the operation of their telephone systems and endeavor to

improve their telephone accessibility to subscribers.

**BILLS FOR SERVICE - FORM OF BILL:** Cable operators are required to provide specific and detailed information on all billing statements. (i.e. name, address, telephone number of the cable company, itemization of each service and its rate, amount due, date due.) N.J.A.C. 14:18-3.7.

NJOCTV agrees with the New York Commission on Cable Television that "the NCTA standards in respect to billing appear to require only that bills be clear, concise and understandable. This standard is too vague to be meaningfully enforced by franchising authorities." (NYSCCT comments page 9, paragraph 13).

**DUE DATE OF PAYMENT AND NOTICE OF DISCONTINUANCE:** Cable operators are required to allow fifteen (15) days from the post mark on the bill for subscribers to pay for their cable service. Also, subscribers must be given fifteen (15) days written notice prior to the company disconnecting service.  
N.J.A.C. 14:18-3.9.

**PROMPT RESTORATION OF SERVICE:** For systems with over 10,000 subscribers, the cable television operator shall dispatch personnel to begin corrective action within two hours of notification of any total loss of service affecting five or more contiguous subscribers within the cable system. Systems having less than 10,000 subscribers shall dispatch personnel to begin corrective action in response to a total loss of cable service affecting

five or more contiguous subscribers within the system as promptly as possible. A cable operators response to multiple, simultaneous outages is governed by a "reasonable response" standard.

N.J.A.C. 14:18-3.13.

The NJOCTV recently conducted a review with respect to the complaints received for the year ending 1992 concerning service interruptions (outages). The NJOCTV review found that there were forty-two (42) less consumer complaints lodged with the NJOCTV concerning service interruptions between 1991 and 1992. We believe that this decline in the volume of complaints may be a result of the NJOCTV's newly adopted prompt restoration rule. This rule, we maintain, is causing a heightened responsiveness on the part of the cable operator in regards to service interruptions.

**PERIODIC NOTICES TO SUBSCRIBERS:** Cable operators shall provide annual notices to each subscriber of the following:

1. Notice of all monthly service packages and corresponding rates available according to the subscriber's billing classification.
2. Notice of the advance payment discount, if the cable television operator's filed rate tariff provides for payments more than 30 days in advance.
3. Notice of the availability of senior citizens/ disabled discounts in systems where offered.
4. Notice of the availability of devices for the hearing impaired.

Cable operators shall provide quarterly notices to each subscriber of the following:

1. Notice of the outage credit policy.
2. Notice of the designated complaint officer where subscriber's can submit complaints regarding the local cable operator. N.J.A.C. 14:18-3.13.

**NOTICE OF PLANNED INTERRUPTIONS:** Planned interruptions for operating reasons shall always be proceeded by reasonable notice, preferably on the local origination channel, to all affected subscribers, and the work shall be planned to minimize subscriber's inconvenience. N.J.A.C. 14:18-3.22.

**LATE FEES AND CHARGES:** Cable operators shall not impose an additional fee charge or penalty on any account balance less than 30 days past due. N.J.A.C. 14:18-3.24.

#### **CONCLUSION**

We strongly recommend that the Commission establish "flexible" standards that would allow franchising authorities the opportunity to impose and sustain more diverse and stringent requirements based on the needs and particularities of their jurisdiction.

We respectfully submit New Jersey as an example of how a franchising authority, through rulemaking, has established a framework of enforceable, virtually uniform customer service standards which reflect broad consumer protection needs and ensure the quality of cable service as Congress intended.



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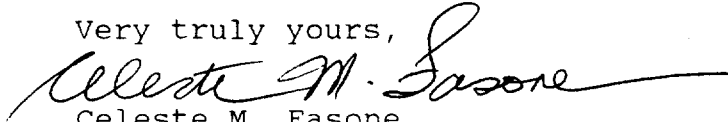
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#### **CONCLUSION**

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